

TOWN OF NUCLA, STATE OF COLORADO  
ORDINANCE NO. 70

AN ORDINANCE PERTAINING TO POLICE MAGISTRATE COURT, PROVIDING FOR PROCEDURE BEFORE THE MAGISTRATE, PROVIDING FOR JURY TRIAL, PROVIDING FOR SALARY FOR THE MAGISTRATE, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF NUCLA, COLORADO.

SECTION 1. Statement of Purpose: In order to provide a simple and expeditious method for the prosecution of violations of Municipal Ordinances in the Town of Nucla, State of Colorado, but one which will also guarantee to the defendant a method of exercising his constitutional rights, the Board of Trustees does hereby establish a Police Magistrate Court in the Town of Nucla, Colorado, under the circumstances set forth hereinafter.

SECTION 2. Commencement of an Action: Prosecution for the violation of a Town Ordinance shall be commenced by the issuance of a Summons and Complaint, and of a Summons following a Complaint filed with the Police Magistrate.

SECTION 3. Issuance of Summons and Complaint: A summons of the Marshall for a violation of any of the Ordinances of the Town of Nucla, State of Colorado, committed in his presence, or if not committed in his presence, concerning which he has reasonable grounds for believing was committed in fact and was committed by the person charged. A copy of a Summons and Complaint so issued shall be filed immediately with the Police Magistrate before when the appearance is required.

SECTION 4. Issuance of Summons After Complaint: A Summons may be issued by the Police Magistrate if a sworn Complaint has been filed by any person with the Town requesting an issuance of a Summons from the Police Magistrate Court. The Police Magistrate shall issue said Summons when it appears from the Complaint that there is proper cause to believe that a violation has been committed and that the defendant has committed it.

SECTION 5. Contents of Summons and Complaint: The Summons and Complaint issued by the Town Marshall or his Deputy shall contain the name of the defendant, shall identify the offense charged including the citation of the Ordinance alleged to have been violated, shall contain a brief statement or description of the offense charged, including the date and approximate location thereof, and shall direct the defendant to appear before the Police Magistrate at a stated time, date, and place.

SECTION 6. Service of Summons or Complaint: A Summons or Complaint issued under this ordinance shall be served personally upon the defendant and a copy given to him. In lieu of personal service, service may be made by leaving a copy at the defendant's usual place of abode with some person over the age of eighteen (18) years residing therein, or by mailing a copy to the defendant's last known address by certified mail with return receipt requested, not less

SECTION 7. Failure to Appear: If a person upon whom a Summons has been served pursuant to this Ordinance fails to appear in person or by counsel at the date or place specified, a Warrant shall be issued by the Police Magistrate for his arrest.

SECTION 8. Admission to Bail Pending Appearance: All cases of violations of Town Ordinances shall be bailable, and the person arrested thereunder shall be admitted to bail in a reasonable sum as hereunder set forth. Said bail may be taken and approved by the Town Clerk, the Police Magistrate, or by the Mayor of the Town. Bail may be in the form of cash security, tangible or intangible personal property, or acceptable corporate surety bond, or by real property within the Town of Nueña owned by the person charged, or by an adequate and acceptable private sureties.

In all cases where an accident has occurred or where the charge is reckless driving, or where a disturbance has occurred, said matters shall be heard before the Police Magistrate.

In cases of violations as set forth in the following Sections of the Model Traffic Code for Colorado Municipalities, in the event cash bail is deposited with the Clerk of the Town and the defendant fails to appear before the Police Magistrate, said bail shall be forfeited and the matter closed.

SECTION 9. Traffic Violations: Cash bonds will be accepted in the following amounts where no accident has occurred for violations under the Model Traffic Code for Colorado Municipalities, as follows:

Under Article I	.....Right of Way.....	\$10.00
Under Article II	.....Through Streets, Stop & Yield Intersect.....	10.00
Under Article III	.....Special Stops, Crossings, Driveways.....	15.00
Under Article IV	.....Speed Regulations.....	25.00
Under Article V	.....Careless Driving, See. 5-2.....	30.00
Under Article VI	.....Turning & Starting, Signals on Stops & Turns.....	15.00
Under Article VII	.....Driving on Right Side, Overtaking, Following.....	15.00
Under Article VIII	.....One-Way Streets, Alleys, Laned Roads.....	10.00
Under Article IX	.....Driving on Divided Streets.....	10.00
Under Article X	.....Method of Parking.....	10.00
Under Article XI	.....Stopping, Standing & Parking (No Signs).....	11.00
Under Article XII	.....Stopping, Standing & Parking (Official Signs)	2.50
Under Article XIII	.....Stopping for Loading & Unloading (Signs Req'd)	15.00

On second offense of any violation within one (1) year, bail shall be double the amount above provided. On third offense, appearance must be made in Court. Bail in all other cases shall be fixed by the Police Magistrate not to exceed \$300.00. All other violations contained in said Model Traffic Code shall be handled by the violator's appearance before the Police Magistrate.

SECTION 11. Appeals: Appeals may be taken from any judgement of the Police Magistrate Court to the County Court of Montrose County, State of Colorado as provided by the Statutes of the State of Colorado.

SECTION 12. Jury Trials: Every defendant charged with a violation of any Town Ordinance shall have a right to trial by jury, provided that on or before the appearance he shall request trial of the factual issues by jury and shall deposit the sum of \$15.00 with the Town Clerk at the time of making such jury demand in writing. Failure to make demand on or before the appearance date shall be deemed a waiver of any right to a jury trial.

Said jury shall consist of three members, and the Town and the Defendant shall each have one peremptory challenge.

SECTION 13. Trial: Trial of cases under this Ordinance shall be had according to the Rules and Laws of Evidence. Parties may appear with or without counsel. The Town attorney may appear on behalf of the Town when in his judgement his appearance is required. In Appeals, the Town attorney, or someone in his behalf, shall appear before the County Court for the prosecution of Appeals from the Police Magistrate Court.

SECTION 14. Services by Sheriff: Any Sheriff or his Deputy may serve within this County any process issued from the Police Magistrate Court of the Town of Nucla, or may make an arrest within this County authorized by law to be made by the Town of Nucla and any costs incurred by the Sheriff in making said service or arrest shall be additional costs to those hereinto provided for in this Ordinance.

SECTION 15. Salary: Salary of the Police Magistrate of the Town of Nucla shall be from time to time fixed by the Board of Trustees of the Town, and all costs collected by the Magistrate shall be deposited together with all fines with the Clerk of the Town. No fee shall be paid to the Police Magistrate as such for any duty performed by the Magistrate in his official capacity, and he shall only receive such salary as is provided by the Board of Trustees.

SECTION 16. All Ordinances or parts of Ordinances in conflict herewith, are hereby repealed and declared null and void.

The Board of Trustees hereby finds that an emergency exists and that this ordinance is necessary for the immediate preservation of public health, peace, and safety, and that same shall take effect five (5) days after its passage and final publication in the Nucla Forum Newspaper.

Passed, Adopted and Approved this 12 <sup>th</sup> day of June, A.D. 19 67

*Amended Ord #152*